

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

VB

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

08/484, 537 06/07/95 QUEEN

C 11823-002630

020350 HM22/0203
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111

EXAMINER

BURKE, J

ART UNIT	PAPER NUMBER
----------	--------------

1642

39

DATE MAILED:

02/03/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Advisory Action	Application No. 08/484,537	Applicant(s) Queen et al
	Examiner Julie E. Burke (Reeves), Ph.D.	Group Art Unit 1642

THE PERIOD FOR RESPONSE: [check only a) or b)]

- a) expires three months from the mailing date of the final rejection.
- b) expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

Appellant's Brief is due two months from the date of the Notice of Appeal filed on _____ (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on 23 Dec 1999 has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:

The proposed amendment(s):

- will be entered upon filing of a Notice of Appeal and an Appeal Brief.
- will not be entered because:
 - they raise new issues that would require further consideration and/or search. (See note below).
 - they raise the issue of new matter. (See note below).
 - they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
 - they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: Sub spec raises the issue of new matter because there is no statement concerning new matter & because a red marked up copy is missing. MPEP 608.01(g). The new Oath/Decl will not be entered (see Other)

Applicant's response has overcome the following rejection(s):

Had the amdt to the claims been entered, the remaining claim objection/rejections would have been overcome.

Newly proposed or amended claims _____ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.

The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because: the new Oath/Declaration, petition to change inventors and new sub spec raises the issues of new matter, inventorship questions and priority

The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):

Claims allowed: none

Claims objected to: none

Claims rejected: 111-126 and 131-144

The proposed drawing correction filed on _____ has has not been approved by the Examiner.

Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

Other because it now states that this application is a continuation in part of 07/634,278 while the file wrapper states that this is a continuation while the amdt to the first line of the spec filed 5/14/98 states that this is a divisional. The terminal disclaimers filed 12/23/99 have been entered and are sufficient to obviate the obvious-type double patenting rejection.

Julie Burke
JULIE BURKE
PRIMARY EXAMINER